

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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ALL-WAYS FORWARDING INT’L, INC.,	:	
	:	
Plaintiff,	:	
	:	21-cv-11071 (VSB)
-against-	:	
	:	<u>ORDER</u>
M/V EVER LIBERAL, et al.,	:	
	:	
Defendants.	:	
	:	
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VERNON S. BRODERICK, United States District Judge:

On December 27, 2021, Plaintiff filed this action against Defendants M/V Ever Liberal *in rem* (“M/V Ever Liberal”); Evergreen Marine Corp. (Taiwan) Ltd. (“Evergreen Marine”); Evergreen Marine Corp (Taiwan) Ltd d/b/a Evergreen Line (“Evergreen Line”); and Master International Logistics (China) Co., Ltd. (“Master International”). (Doc. 1.) As of March 29, 2022, none of the Defendants had appeared, and Plaintiff had not filed any affidavit of service or taken any other action to prosecute this case. (*See* Doc. 7.) Therefore, I ordered Plaintiff to submit a letter of no more than three (3) pages, supported by legal authority, demonstrating good cause as to why this case should not be dismissed pursuant to Federal Rule of Civil Procedure 4(m). (*Id.*)

On March 30, 2022, Plaintiff filed an executed waiver of service for Evergreen Line dated March 6, 2022. (Doc. 8.) The waiver of service indicated that Evergreen Line’s answer would be due April 5, 2022. (*See id.*) Evergreen Marine filed an answer on April 5, 2022. (Doc. 11.) Although Evergreen Marine’s answer indicates that it is on behalf of Evergreen Line, it was only filed on behalf of Evergreen Marine. (*See id.* (“COMES NOW, Defendant EVERGREEN MARINE CORP. (TAIWAN) LTD. (“EVERGREEN”), also doing business as

Evergreen Line . . .”).) Also on April 5, 2022, Plaintiff filed a letter response to my order to show cause. (Doc. 9.) Plaintiff explained that Plaintiff’s counsel had sent a waiver of service to Evergreen Marine and Evergreen Line—which Plaintiff called, “collectively ‘Evergreen’”—but Evergreen had not returned the waiver until March 30, 2022, at which point Plaintiff promptly filed the waiver on the docket. (*Id.* at 1.) Plaintiff further explained,

Although the containership M/V Ever Liberal, *in rem*, is a party to this action, Allways has not filed for the issuance of a warrant for its arrest because the M/V Ever Liberal is not currently sailing on a trade route that has port calls in the Unites [sic] States, and as such cannot currently be served with a warrant and arrested by the U.S. Marshal.

(*Id.* at 2.) Plaintiff’s letter is silent as to Defendant Master International. Plaintiff’s letter is also devoid of any legal authority. Accordingly, it is hereby:

ORDERED that, because Evergreen Marine and Evergreen Line appear to be the same entity, (*see also* Doc. 1, at ¶¶ 4, 6), Evergreen Line is DISMISSED as a separate Defendant in this action. If Evergreen Marine and Evergreen Line are in fact different Defendants, Plaintiff may move to reinstate Evergreen Line. In that case, if Plaintiff intends to seek default judgment against Evergreen Line, Plaintiff is directed to do so in accordance with Rule 4(H) of my Individual Rules and Practices in Civil Cases within seven (7) days of Evergreen Line’s reinstatement.

FURTHER ORDERED that, since Plaintiff has shown no cause for failing to serve Master International, Master International is DISMISSED from this action pursuant to Federal Rule of Civil Procedure 4(m).


FURTHER ORDERED that, no later than April 15, 2022, Plaintiff shall submit a letter of no more than three (3) pages, supported by legal authority, demonstrating good cause as to why Plaintiff’s claims against M/V Ever Liberal should not be dismissed pursuant to Federal Rule of Civil Procedure 4(m). The letter should address, among other things, the procedures for service

of process in this situation. The letter must include citations to legal authority.

The Clerk of Court is respectfully directed to terminate Defendants Evergreen Marine Corp (Taiwan) Ltd d/b/a Evergreen Line and Master International Logistics (China) Co., Ltd.

SO ORDERED.

Dated: April 8, 2022
New York, New York



VERNON S. BRODERICK
United States District Judge